IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.28199 of 1997
DATED 21-2-2007

BETWEEN
The Depot Manager,
APSRTC Bus Depot, Nizamabad.

.. Petitioner

And

S. Narayana and another.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.28199 of 1997

ORDER:

The award of the Labour Court-II, Hyderabad in ID.No.27 of 1995 dated 21.9.1996 is under challenge.

While notice was sent to the 1st respondent-workman, it was returned with an endorsement that he had refused to receive the notice. As such, notice is deemed to have been served on him.

The 1st respondent was removed from service consequent upon a departmental enquiry being held for the proved misconduct of failing to collect the fares and issuing the tickets to a batch of 9 passenger who were found alighting without tickets at stage No.9 (Basara temple) and that he had violated the rule of 'issue and start'

and had failed to close the SR. The Labour Court took note of the 1st respondent-workman's plea that on 28.5.1990, while he was conducting the service on the route from Nizamabad to Basara, a check was exercised by the TTIs at stage No.9, at the outskirts of Basara temple, and during that time, the bus was running late by one hour and that the passengers have troubled him to pay the revised fares, which had come into effect a day prior thereto. The Labour Court also took note of the 1st respondent's contention that the TTIs had collected the excess fare amount of Rs.50/- from the passengers. The Labour Court, however, noted that this plea of the 1st respondent was not accepted by the Enquiry Officer and by the disciplinary authority on the ground that he had failed to issue tickets to 9 passengers. Taking into consideration the facts and circumstances, the Labour Court directed reinstatement of the petitioner with attendant benefits such as continuity of service but only with 25% of backwages.

In **Karnataka State Road Transport Corporation v. B.S.Hullikatti**[1], the Supreme Court observed that it is the responsibility of bus conductor to collect correct fares from the passengers and deposit the same in the Corporation, that conductors act in fiduciary capacity, it would be gross misconduct if knowingly they did not collect any fare or the correct amount of fare and that, in such cases, interference with the punishment of dismissal from service was a case of misplaced sympathy by the Labour Court. In **Regional Manager, Rajastan State Road Transport Corporation v. Ghanshyam Sharma**[2], the Supreme

Court held that the proved acts amounted either to a case of dishonesty or of gross negligence and bus conductors, who by their actions or inactions cause financial loss to the Corporation, are not fit to be retained in service. In **V.Ramana v. A.P.S.R.T.C**[3] the Supreme Court held that Courts/Tribunals should not interfere unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/Tribunal.

In view of the aforesaid judgments of the Supreme Court, the award of the Labour Court in directing reinstatement and continuity of service, that too with 25% backwages, is obviously a case of misplaced sympathy. Such needless indulgence ought not to have be shown by the Labour Courts/Tribunals while exercising powers under Section 11-A of the Industrial Disputes Act,1947. The fact remains that the petitioner herein has chosen to reinstate the 1st respondent into service and the 1st respondent has been working in the respondent Corporation for the past ten years. Nothing has been brought to the notice of this Court regarding his subsequent conduct, which would necessitate interference with the award of the Labour Court insofar as it had directed reinstatement of the employee. Suffice to hold that the award of the Labour Court insofar as it directed payment of 25% backwages is contrary to law and is accordingly set aside.

The writ petition is allowed in part and the award of the Labour Court to the limited extent of it directing payment of 25% backwages to the petitioner is set aside. However, in the circumstances, without costs.

RAMESH RANGANATHAN,J

Dt: 21.2.2007
msv.

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[1] AIR 2001 SC 930
[2] 2002(1) LLJ 234
[3] AIR 2005 SC 3417